

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RODERICK MCCONNELL,

No. C 08-04271 SBA (PR)

Petitioner,

ORDER OF TRANSFER

v.

J. D. HARTLEY, Warden,

Respondent.

Petitioner, a state prisoner, has filed a pro se petition for a writ of habeas corpus in which he challenges the execution of his sentence. He seeks leave to proceed in forma pauperis (IFP).

A petition for a writ of habeas corpus filed by a state prisoner in a State that contains two or more federal judicial districts may be filed in either the district of confinement or the district of conviction. See 28 U.S.C. § 2241(d). The district court where the petition is filed, however, may transfer the petition to the other district in the furtherance of justice. See id. Federal courts in California traditionally have chosen to hear petitions challenging a conviction or sentence in the district of conviction. See Dannenberg v. Ingle, 831 F. Supp. 767, 767 (N.D. Cal. 1993); Laue v. Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968). But if a habeas petition is directed to the manner in which a sentence is being executed, e.g., if it involves parole or time credit claims, the district of confinement is the preferable forum. See Habeas L.R. 2254-3(a); Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989).

Petitioner is incarcerated at Avenal State Prison, which lies within the venue of the Eastern District of California. See 28 U.S.C. § 84. Because Petitioner challenges the execution of his sentence, the Court hereby ORDERS that pursuant to 28 U.S.C. § 1404(a) and Habeas L.R. 2254-3(b), and in the interests of justice, this petition be TRANSFERRED to the United States District Court for the Eastern District of California.

Petitioner's IFP application is TERMINATED as moot.

IT IS SO ORDERED.

DATED: 10/30/08


SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT JUDGE

United States District Court
For the Northern District of California

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

RODERICK MCCONNELL,

Case Number: CV08-04271 SBA

Plaintiff,

CERTIFICATE OF SERVICE

v.

J.D. HARTLEY et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 3, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Roderick McConnell J-01287
Avenal State Prison
P.O. Box 9
Avenal, CA 93204

Dated: November 3, 2008

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk